IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION NOS.15489, 15494, 15505, 15725 OF 2000,

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WRIT PETITION NO.15489 of 2000

Between:

M/s Rajkamal Electronics Rep by its Proprietor Kamalesh H. Shah S/o Himmathlal Shah, R/o 1-1-188/B, Chikkadpally, Hyderabad-20.

..... PETITIONER

AND

1 The Municipal Corporation of Hyderabad, Rep by its Commissioner, Tank Bund Road, Hyderabad.
2 The Additional Commissioner (Finance) Advertisement Section M.C.H. Tank Bund Road, Hyderabad.

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate Writ order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the Respondents in treating the name Boards/Board frames fixed by the Petitioner on the Parapet Walls of his Business place are as covered by Section 420 and 421 of the H.M.C. Act, is illegal, arbitrary, capricious and in violation of the principles of natural justice.

Counsel for the Petitioner: MR.P.SRIHARI

Counsel for the Respondents: MR. G. RAMA RAO (SC MCH, CIRCLE 3-5)

WRIT PETITION NO.15494 of 2000

Between:

M/s Jai Bhagawathi Electronics, Rep by its Proprietor Suresh Chand Agarwal, S/o late Kedarmal, R/o 1-8-546 to 548, Chikkadpally, Hyderabad-20.

..... PETITIONER

AND

1 The Municipal Corporation of Hyderabad, Rep by its Commissioner, Tank Bund Road, Hyderabad.
2 The Additional Commissioner (Finance) Advertisement Section M.C.H., Tank Bund Road, Hyderabad.

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate Writ order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in treating the name Boards/board frames fixed by the petitioner on the parapet walls of his business place are as covered by Section 420 and 421 of the H.M.C. Act is illegal, arbitrary, capricious and in violation of the principles of natural justice.

Counsel for the Petitioner: MR.P.SRIHARI

Counsel for the Respondents: MR. G. RAMA RAO (SC MCH, CIRCLE 3-5)

WRIT PETITION NO.15505 of 2000

Between:

M/s Venus Jewellers, Rep by its Proprietor K Ravi Chandra
S/o Late K Shusha Rao, R/o 1-8-52/2, Chikkadpally, Hyderabad.

..... PETITIONER

AND

1 The Municipal Corporation of Hyderabad, Rep by its Commissioner Tank Bund Road, Hyderabad.
2 The Additional Commissioner (Finance) Advertisement Section, M.C.H. Tank Bund Road, Hyderabad.

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate Writ, order or direction more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents in treating the name Boards/board frames fixed by the petitioner on the parapet walls of his business place are as covered by Section 420 and 421 of the H.M.C. Act, is illegal, arbitrary, capricious and in violation of the principles of natural justice.

Counsel for the Petitioner: MR.K.SARVA BHOUMA RAO

Counsel for the Respondents: MR. G. RAMA RAO (SC MCH, CIRCLE 3-5)

WRIT PETITION NO.15725 of 2000

Between:

M/s. Tirumala Infotech & Communications Ltd., Rep. by its Proprietor N.Chandra Shekar, S/o. Late N. Raghu Ramulu
R/o. 1-1-211, Chikkadapally, Hyderabad-20.

..... PETITIONER

AND

1 The Municipal Corporation of Hyderabad, Rep. by its Commissioner, Tank Bund Road, Hyderabad.
2 The Addl. Commissioner (Finance) Advertisement Section, M.C.H., Tank Bund Road, Hyderabad.

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate Writ order or direction more particularly in the nature of Writ of Mandamus, declaring the action of the respondents in treating the name Boards/board frames fixed by the Petitioner on the parapet walls of his business place are as covered by Section 420 and 421 of the H.M.C. Act, is illegal, arbitrary, capricious and in violation of the principles of natural justice.

Counsel for the Petitioner: MR.P.SRIHARI

Counsel for the Respondents: MR. G. RAMA RAO (SC for HMC)

The Court made the following:

COMMON ORDER:

Since the facts involved in all these writ petitions are similar in nature, they are being disposed of together.

Challenging the action of the respondents in treating the name boards/board frames fixed by the petitioners on the parapet walls of their respective business places, as illuminated advertisements and covered under Sections 420 and 421 of the Hyderabad Municipal Corporation Act, 1955, the present writ petitions are filed.

Though the writ petitions were admitted as far back as in the year 2000 and interim orders were passed, no counter affidavits are filed on behalf of the respondent-Municipality so far.

Heard the learned counsel for the petitioners and the learned Standing Counsel for the respondent-Municipality.

Learned counsel for the petitioners mainly contended that the petitioners have erected the name boards/board frames on the parapet walls of their shops in which they were running their business indicating their addresses, therefore, they

cannot be treated as illuminated advertisements. They further contend that for erecting such boards there is no need to take or obtain any permission from the respondent-Municipality under Section 421 (1) (a) and (b) of the Hyderabad Municipal Corporation Act, 1955, therefore, the action of the respondent-Municipality in directing the petitioners to pay the advertisement fee is illegal and arbitrary.

On the other hand, learned Standing Counsel for the respondent-Municipality submits that the respondent-Municipality has not taken any action whatsoever against the petitioners herein and that the petitioners, only on apprehension that the respondent-Municipality would remove the name boards of their shops, approached this Court and filed the present writ petitions. However, he further submits that in similar matters a Division Bench of this Court directed the respondent-Municipality to issue notices to the concerned shop owners and after affording an opportunity of being heard to them, shall take appropriate action in the matter, and requested to dispose of the present writ petitions following the said principle.

A perusal of the writ averments clearly indicates that as on today the respondent-Municipality has not passed any orders whatsoever against the petitioners. However, the apprehension of the petitioners is that the respondent-Municipality has removed the name boards of their neighbouring shops and would remove the name boards of their shops demanding to pay the advertisement fee.

Having regard to the facts and circumstances of the case, without going into the merits of the matter, I deem it appropriate to dispose of the writ petitions with a direction to the respondent-Municipality that before proceeding to remove the name boards/board frames of the petitioners shops, it shall issue notices to the petitioners and after affording an opportunity of hearing to them shall take appropriate action in the matter in accordance with law as expeditiously as possible. Till such time status quo existing as on today shall be maintained.

With the above direction, the writ petitions are disposed of. No costs.

N.V. RAMANA, J.

Date: 24.06.2005

Nsr/Ksr

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Commissioner, Municipal Corporation of Hyderabad,
Tank Bund Road, Hyderabad.
2 The Additional Commissioner (Finance) Advertisement Section
M.C.H. Tank Bund Road, Hyderabad.

3 2 CD copies

*Form-NIC-OGS/WP{**SRAVAN**}*